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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Applicant: Brian N. Tufts Confirmation No.: 2577  
Serial No. 10/027,829 Examiner: Igor N. Borissov  
Filing Date: October 19, 2001 Group Art Unit 3629  
For: METHOD AND SYSTEM FOR INCREASING THE PARTICIPATION OF  
CONTRIBUTORS TO A CHARITY OR OTHER NON-PROFIT  
Docket: 1076.1103101 Customer No.: 28075

APPEAL BRIEF UNDER 37 C.F.R. § 41.37

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Pursuant to 37 C.F.R. § 41.37, Appellant hereby submits this Appeal Brief in furtherance of the Notice of Appeal filed on January 13, 2005. As indicated on the Fax Cover Letter, please charge the fee prescribed by 37 C.F.R. § 41.2(b)(2) in the amount of \$250.00 to Deposit Account No. 50-0413. Permission is hereby granted to charge or credit Deposit Account No. 50-0413 for any errors in fee calculation.

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**I. REAL PARTY IN INTEREST**

The real party in interest is the inventor Brian N. Tufte.

**II. RELATED APPEALS AND INTERFERENCES**

There are no related appeals or interferences.

**III. STATUS OF CLAIMS**

Claims 1-32 are pending. Claims 1-28 and 30-32 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Klasky et al. (U.S. 2002/0038225) in view of Kaneko et al. (U.S. 5,930,763) and further in view of Robbins (U.S. 2003/0182265). Claim 29 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Klasky et al. (U.S. 2002/0038225) in view of Kaneko et al. (U.S. 5,930,763) in view of Robbins (U.S. 2003/0182265) and further in view of O'Donnell et al. (U.S. 2002/0013739). The rejections of all pending claims 1-32 are appealed herein.

**IV. STATUS OF AMENDMENTS**

Amendments and remarks dated 02/20/04, 7/22/04, and 12/01/04 have been entered and considered.

**V. SUMMARY OF CLAIMED SUBJECT MATTER<sup>1</sup>**

The present invention relates generally to charities or other non-profits, and more particularly, to methods and systems for increasing the participation of contributors that provide donations to charities or other non-profits. By increasing the participation of the contributors, it is believed that the contributors will make more donations to the charities and other non-profits. Also, it may be easier to attract contributors to a particular charity or other non-profit, which may help the charity or other non-profit gain a greater market share of the limited charitable donations contributed each year.

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<sup>1</sup> The references to the specification and drawings provided herein are only illustrative and not limiting in any way.

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In one illustrative embodiment, the participation of contributors may be increased by allowing the contributors to track their donations, or goods and/or services assigned to their donations. For example, independent claim 1 recites a method for increasing the participation of contributors that provide donations to an organization. More specifically, claim 1 recites: receiving either directly or indirectly a donation from a contributor (see, for example, specification, page 2, line 20 through page 3, line 4; page 7, line 1 through page 9, line 1; Figure 1; Figure 6A; page 13, lines 1-13; Figure 5, reference numbers 112, 114, 116, 118, 110; Figure 7, reference number 140; Figure 8, reference number 160; page 16, lines 4-17; Figure 9); assigning the donation to a delivery lot of cash, goods and/or services (see, for example, specification, page 3, lines 5-13; page 9, lines 2-24; page 13, line 23 through page 14, line 11; Figure 5, reference numbers 110, 118; Figure 6A, reference number 66; page 14, line 22 through page 15, line 2; Figure 7, reference number 148; page 15, lines 8-10; Figure 8, reference number 166; page 17, lines 3-7; page 17, line 23 through page 18, line 1); obtaining the location of the delivery lot at one or more points in time (see, for example, specification; page 2, lines 16-18; page 3, lines 14-15; page 6, lines 20-22; page 10, lines 1-11; page 14, lines 12-19; Figure 5, reference numerals 110 and 122; Figure 6B; page 15, lines 2-4; Figure 7, reference numeral 150; page 15, lines 17-23; Figure 8, reference numeral 170; page 18, lines 1-9); and providing the location of the delivery lot to the contributor (see, for example, specification; page 3, lines 15-20; page 6, lines 22-23; page 15, lines 2-4; Figure 3, reference numeral 84; Figure 4, reference numeral 100; Figure 5, reference numerals 110 and 112; Figure 6B; Figure 7, reference numeral 152; page 15, line 17 through page 16, line 3; Figure 8, reference numeral 174 and 176; page 16, lines 19-21; page 18, lines 1-9).

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With respect to claim 2, the donation may be received either directly or indirectly from a contributor via the Internet (see, for example, specification, page 2, line 20 through page 3, line 1; page 7, line 1 through page 9, line 1; Figure 1; page 13, lines 1-13; Figure 5, reference numbers 112, 114, 116, 118, 110; Figure 7, reference number 140; Figure 8, reference number 160; page 16, lines 4-17; Figure 9).

With respect to claim 3, the information that is received may include the contributor's name (see, for example, specification, page 2, lines 21-23; page 7, lines 4-6; Figure 1, reference numerals 20 and 22; page 8, lines 1-7; Figure 6A, reference numeral 56).

With respect to claim 4, the information that is received may include the contributor's payment information (see, for example, specification, page 2, lines 21-23; page 7, lines 8-9; Figure 1, reference numerals 28 and 30; Figure 2, reference numeral 70; page 8, lines 1-7; Figure 6A, reference numeral 62).

With respect to claim 5, the information that is received may include a donation preference (see, for example, specification, page 2, lines 21-23; page 7, lines 10-11; Figure 1, reference numeral 34; Figure 2, reference numeral 70; page 8, lines 1-7; Figure 6A, reference numeral 64).

With respect to claim 6, the information may be received by the phone (see, for example, specification, page 2, line 23 through page 3, line 1; page 4, lines 10-12; page 7, lines 17-21; page 13, lines 4-7).

With respect to claim 7, the information may be received by email (see, for example, specification, page 2, line 23 through page 3, line 1; page 4, lines 10-12; page 7, lines 17-21).

With respect to claims 8-10, the delivery lot of cash, goods and/or services may include food, medicine and/or cash (see, for example, specification, page 9, lines 20-23).

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With respect to claim 11, the location of the delivery lot may be provided in response to a request from the contributor (see, for example, specification, page 3, line 21 through page 4, line 7; page 10, line 12 through page 12, line 5; Figures 3-4; page 15, lines 12-16; Figure 8, reference numerals 172 and 174).

With respect to claim 12, the location of the delivery lot may be provided via a web site that is accessible by the contributor (see, for example, specification, page 3, line 21 through page 4, line 7; page 10, line 12 through page 12, line 5; Figure 3, reference numeral 84; Figure 4, reference numeral 100; page 15, lines 12-16; Figure 8, reference numerals 172 and 174).

With respect to claim 13, the location of the delivery lot may be automatically provided to the contributor at the one or more points in time (see, for example, specification, page 4, lines 8-12; page 12, lines 6-10; page 15, line 17 through page 16, line 3; Figure 8, reference numerals 170, 176 and 178).

With respect to claim 14, the location of the delivery lot may be provided to the contributor via e-mail (see, for example, specification, page 2, line 23 through page 3, line 1; page 4, lines 10-12; page 7, lines 17-21).

With respect to claims 15-16, the delivery lot may include one or more types of cash, goods and/or services (see, for example, specification, page 2, lines 15-16; page 3, lines 5-6; page 6, lines 19-20; page 9, lines 2-3, 12-13 and 20-23; page 13, line 23 through page 14, line 1; page 14, lines 6-7).

With respect to claim 17, each donation may be assigned to a unique delivery lot (see, for example, Figure 6A, "Steve Lewis" entry).

With respect to claim 18, two or more donations may be assigned to a common delivery lot (see, for example, specification, page 3, lines 7-13; page 9, lines 4-19; page 14, lines 2-11;

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Figure 6A, both "Jessica Ray" and "Brianna Marie" entries are assigned to delivery lot P1-11232A; page 15, lines 1-2; Figure 7, reference numerals 146 and 148; page 15, lines 8-10; Figure 8, reference numerals 166 and 168; page 16, lines 18-21).

With respect to claim 19, the location of each delivery lot may be obtained at two or more points in time, each corresponding to a different location (see, for example, specification; page 2, lines 16-18; page 3, lines 14-15; page 6, lines 20-22; page 10, lines 1-11; page 14, lines 12-19; Figure 5, reference numerals 110 and 122; Figure 6B; page 15, lines 2-4; Figure 7, reference numeral 150; page 15, lines 17-23; Figure 8, reference numerals 170, 176 and 178; page 18, lines 1-9).

Independent claim 20 recites another method for increasing the participation of contributors that provide donations to an organization. More specifically, claim 20 recites: receiving either directly or indirectly two or more donations from two or more contributors (see, for example, specification, page 2, line 20 through page 3, line 4; page 7, line 1 through page 9, line 1; Figure 1; Figure 6A; page 13, lines 1-13; Figure 5, reference numbers 112, 114, 116, 118, 110; Figure 7, reference number 140; Figure 8, reference number 160; page 16, lines 4-17; Figure 9); assigning each donation to a delivery lot of cash, goods and/or services (see, for example, specification, page 3, lines 5-13; page 9, lines 2-24; page 13, line 23 through page 14, line 11; Figure 5, reference numbers 110, 118; Figure 6A, reference number 66; page 14, line 22 through page 15, line 2; Figure 7, reference number 148; page 15, lines 8-10; Figure 8, reference number 166; page 17, lines 3-7; page 17, line 23 through page 18, line 1); obtaining the location of each delivery lot at one or more points in time (see, for example, specification; page 2, lines 16-18; page 3, lines 14-15; page 6, lines 20-22; page 10, lines 1-11; page 14, lines 12-19; Figure 5, reference numerals 110 and 122; Figure 6B; page 15, lines 2-4; Figure 7, reference numeral



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150; page 15, lines 17-23; Figure 8, reference numeral 170; page 18, lines 1-9); and providing the location of a delivery lot to one or more contributors, each contributor receiving the location of the delivery lots that correspond to the contributor's donations (see, for example, specification; page 3, lines 15-20; page 6, lines 22-23; page 15, lines 2-4; Figure 3, reference numeral 84; Figure 4, reference numeral 100; Figure 5, reference numerals 110 and 112; Figure 6B; Figure 7, reference numeral 152; page 15, line 17 through page 16, line 3; Figure 8, reference numeral 174 and 176; page 16, lines 19-21; page 18, lines 1-9).

With respect to claim 21, each donation may be assigned a unique ID, and each contributor may provide or select the unique ID to receive the location of the corresponding delivery lot (see, for example, specification, page 3, line 21 through page 4, line 7; page 10, line 12 through page 12, line 5; Figures 3-4; page 15, lines 12-16; Figure 8, reference numerals 172 and 174).

With respect to claim 22, each contributor may provide or select the unique ID via a web site (see, for example, specification, page 3, line 21 through page 4, line 7; page 10, line 12 through page 12, line 5; Figure 3, reference numeral 80; Figure 4; page 15, lines 12-16).

With respect to claim 23, the location of each delivery lot may be obtained at two or more points in time, each corresponding to a different location (see, for example, specification; page 2, lines 16-18; page 3, lines 14-15; page 6, lines 20-22; page 10, lines 1-11; page 14, lines 12-19; Figure 5, reference numerals 110 and 122; Figure 6B; page 15, lines 2-4; Figure 7, reference numeral 150; page 15, lines 17-23; Figure 8, reference numerals 170, 176 and 178; page 18, lines 1-9).

Independent claim 24 recites a system for increasing the participation of contributors that provide donations to an organization. More specifically, claim 24 recites: means for receiving

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either directly or indirectly a donation from a contributor (see, for example, specification, page 2, line 20 through page 3, line 4; page 7, line 1 through page 9, line 1; Figure 1; Figure 6A; page 13, lines 1-13; Figure 5, reference numbers 112, 114, 116, 118, 110; Figure 7, reference number 140; Figure 8, reference number 160; page 16, lines 4-17; Figure 9); means for assigning the donation to a delivery lot of cash, goods and/or services (see, for example, specification, page 3, lines 5-13; page 9, lines 2-24; page 13, line 23 through page 14, line 11; Figure 5, reference numbers 110, 118; Figure 6A, reference number 66; page 14, line 22 through page 15, line 2; Figure 7, reference number 148; page 15, lines 8-10; Figure 8, reference number 166; page 17, lines 3-7; page 17, line 23 through page 18, line 1); means for obtaining the location of the delivery lot at one or more points in time (see, for example, specification; page 2, lines 16-18; page 3, lines 14-15; page 6, lines 20-22; page 10, lines 1-11; page 14, lines 12-19; Figure 5, reference numerals 110 and 122; Figure 6B; page 15, lines 2-4; Figure 7, reference numeral 150; page 15, lines 17-23; Figure 8, reference numeral 170; page 18, lines 1-9); and means for providing the location of the delivery lot to the contributor (see, for example, specification; page 3, lines 15-20; page 6, lines 22-23; page 15, lines 2-4; Figure 3, reference numeral 84; Figure 4, reference numeral 100; Figure 5, reference numerals 110 and 112; Figure 6B; Figure 7, reference numeral 152; page 15, line 17 through page 16, line 3; Figure 8, reference numeral 174 and 176; page 16, lines 19-21; page 18, lines 1-9).

Independent claim 25 recites a method for increasing the participation of contributors that provide donations to an organization. More specifically, claim 25 recites: assigning selected donations to a common delivery lot for delivery to an ultimate destination (see, for example, specification, page 3, lines 5-13; page 9, lines 2-24; page 13, line 23 through page 14, line 11; Figure 5, reference numbers 110, 118; Figure 6A, reference number 66; page 14, line 22 through

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page 15, line 2; Figure 7, reference number 148; page 15, lines 8-10; Figure 8, reference number 166; page 17, lines 3-7; page 17, line 23 through page 18, line 1); and reporting information relating to the delivery of the delivery lot to contributors whose donations have been assigned to the delivery lot (see, for example, specification; page 3, lines 15-20; page 6, lines 22-23; page 15, lines 2-4; Figure 3, reference numeral 84; Figure 4, reference numeral 100; Figure 5, reference numerals 110 and 112; Figure 6B; Figure 7, reference numeral 152; page 15, line 17 through page 16, line 3; Figure 8, reference numeral 174 and 176; page 16, lines 19-21; page 18, lines 1-9).

With respect to claim 26, the contributors may include individuals (see, for example, specification, Figure 6A, reference numeral 56). With respect to claim 27, the contributors may include organizations with organization members (see, for example, specification, page 4, lines 13-20; page 16, line 22 through page 17, line 7). With respect to claim 28, the information relating to the delivery of the delivery lot may be reported to one or more members of the contributing organizations (see, for example, specification, page 4, lines 13-20; page 16, line 22 through page 17, line 7).

With respect to claim 29, a chat room may be provided so that the contributors that provided donations to a common delivery lot can communicate with each other (see, for example, specification, page 11, lines 3-5; Figure 3, reference numeral 90).

Independent claim 30 recites a method for increasing the participation of contributors that provide donations to an organization. More particularly, claim 30 recites: displaying one or more delivery lots to a contributor that need to be funding (see, for example, page 16, lines 5-13; Figure 9); accepting a selection of one or more of the available delivery lots by the contributor, and accepting a donation thereto (see, for example, page 16, lines 13-17; Figure 9); and sending

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a funded delivery lot once the delivery lot is fully funded (see, for example, page 16, lines 18-19; Figure 9).

With respect to claim 31, location information may be obtained for the funded delivery lot after the funded delivery lot is sent; and the location information may be provided to those contributors that provided donations to the funded delivery lot (see, for example, page 16, lines 19-21).

Independent claim 32 recites a method for increasing the participation of contributors that provide donations, wherein the donations are assigned to one or more delivery lots of cash, goods and/or services. More particularly, claim 32 recites: obtaining the location of the delivery lot at one or more points in time (see, for example, specification; page 2, lines 16-18; page 3, lines 14-15; page 6, lines 20-22; page 10, lines 1-11; page 14, lines 12-19; Figure 5, reference numerals 110 and 122; Figure 6B; page 15, lines 2-4; Figure 7, reference numeral 150; page 15, lines 17-23; Figure 8, reference numeral 170; page 18, lines 1-9); and providing the location of the delivery lot either directly or indirectly to the contributor (see, for example, specification; page 3, lines 15-20; page 6, lines 22-23; page 15, lines 2-4; Figure 3, reference numeral 84; Figure 4, reference numeral 100; Figure 5, reference numerals 110 and 112; Figure 6B; Figure 7, reference numeral 152; page 15, line 17 through page 16, line 3; Figure 8, reference numeral 174 and 176; page 16, lines 19-21; page 18, lines 1-9).

## VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Whether claims 1-28 and 30-32 are patentable in view of Klasky et al. (U.S. 2002/0038225), Kancko et al. (U.S. 5,930,763) and further in view of Robbins (U.S. 2003/0182265).

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Whether claim 29 is patentable in view of Klasky et al. (U.S. 2002/0038225), Kaneko et al. (U.S. 5,930,763), Robbins (U.S. 2003/0182265) and further in view of O'Donnell et al. (U.S. 2002/0013739).

## VII. ARGUMENT

A. Claims 1-28 and 30-32 are patentable over Klasky et al. (U.S. 2002/0038225) in view of Kaneko et al. (U.S. 5,930,763) and further in view of Robbins (U.S. 2003/0182265).

1. *Kaneko et al. and Robbins Are Non-Analogous Art*

In discussing non-analogous art, the court has stated:

In resolving the question of obviousness under 35 U.S.C. § 103, we presume full knowledge by the inventor of all the prior art in the field of his endeavor. However, with regard to prior art outside the field of his endeavor, we only presume knowledge from those arts reasonably pertinent to the particular problem with which the inventor was involved. The rationale behind this rule precluding rejections based on combination of teachings from references from non-analogous arts is the realization that an inventor could not possibly be aware of every teaching in every art. Thus, we attempt to more closely approximate the reality of the circumstances surrounding the making of an invention by only presuming knowledge by the inventor of prior art in the field of his endeavor and in analogous arts.

The determination that a reference is from a nonanalogous art is therefore two-fold. First, we decide if the reference is within the field of the inventor's endeavor. If it is not, we proceed to determine whether the reference is reasonably pertinent to the particular problem with which the inventor was involved.

*In re Wood*, 202 USPQ 171, 174 (C.C.P.A. 1979) (Emphasis Added). With regard to the first test, the field of Appellant's endeavor includes a method and system of increasing the participation of contributors to a charity or other non-profit (see the Title of Appellant's Specification).

In contrast to the foregoing, Kaneko relates to a supply chain management system for a factory or the like. More specifically, Kaneko relate to a technique of calculating an order amount in a process of producing products to be utilized in subsequent processes by using parts

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delivered from preceding processes, such that the parts to be delivered from the preceding processes are neither excessive nor insufficient (see, for example, Kaneko et al., column 1, lines 7-12). Robbins relates to a package delivery tracking system for use by shippers and recipients. As can clearly be seen, neither Kaneko nor Robbins relates to the field of increasing the participation of contributors to a charity or other non-profit.

With regard to the second test, the particular problem with which the Appellant was involved was to increase the participation of contributors to a charity or other non-profit. The court has stated that:

A reference is reasonably pertinent if . . . it is one which, because of the matter with which it deals, logically would have commended itself to the inventor's attention in considering his problem. . . . If a reference disclosure has the same purpose as the claimed invention, the reference relates to the same problem, . . . [i]f it is directed to a different purpose, the inventor would accordingly have had less motivation or occasion to consider it.

*In re Clay*, 23 USPQ 2d 1058, 1060-61 (Fed. Cir. 1992). Neither Kaneko nor Robbins would logically have commended themselves to an inventor's attention in considering the inventor's problem, as neither relates in any way to increase the participation of contributors to a charity or other non-profit. In fact, both Kaneko and Robbins have completely different purposes, and an inventor would have no motivation or occasion to consider them.

In response to Appellant's argument that Kaneko and Robbins are non-analogous art, the Examiner states in the Final Office Action that Klasky relates to the online tracking of financial and goods delivery-related information (Emphasis Added); Kaneko relates to online monitoring of goods delivery-related information; and Robbins relates to online tracking of goods-delivery information.

From this, it is clear that the Examiner is attempting to characterize Kaneko and Robbins as analogous art by suggesting that they are used merely to modify an alleged delivery step of

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Klasky. However, and despite the Examiner's assertions, Klasky does not disclose, suggest or relate to in any way to the tracking of goods delivery-related information. In fact, Klasky only relates to a process of soliciting online donations through the use of online matching donations. Klasky does not disclose or suggest what a charity or the like might do with the donations once received, i.e. the distribution or tracking of collected goods delivery related information. Such a tracking or delivery step is entirely missing from Klasky. As such, the Examiner's characterization that Kaneko and Robbins are analogous art cannot stand. In fact, it appears that the Examiner's selection of Kaneko and Robbins is based entirely on Appellants own disclosure, which is clearly improper. In view of the foregoing, both Kaneko and Robbins are clearly non-analogous art, and all rejections based thereon should be withdrawn.

2. *Claims 1-10, 15-17, 19, 24 and 32*

Assuming, for arguments sake that Kaneko et al. and Robbins are analogous art, the combination of Klasky et al., Kaneko et al., and Robbins still does not teach or suggest the invention recited in claim 1. Claim 1 recites:

1. (Original) A method for increasing the participation of contributors that provide donations to an organization, the method comprising the steps of:

receiving either directly or indirectly a donation from a contributor;  
assigning the donation to a delivery lot of cash, goods and/or services;  
obtaining the location of the delivery lot at one or more points in time; and  
providing the location of the delivery lot to the contributor.

As noted above, Klasky does not disclose, suggest or relate to in any way to the tracking of goods delivery-related information. In the Final Office Action, and to support the combination of Klasky and Kaneko et al., the Examiner states that Kaneko et al. teach a method a system for order amount calculation, wherein ordered goods are processed, and wherein said processing appears to include assigning the ordered goods to a delivery lot (citing Kaneko, column 2, line 46-48). The Examiner also states that one skilled in the art would be motivated to modify

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Klasky et al. to include the step of assigning a donation to a delivery lot because it would “allow to arrange shipment of goods ordered in the most cost-effective way by planning the adequate transportation means matching the size and weight of a particular delivery lot.”

First, Appellant would like to point out that Klasky et al. only relates to a process of soliciting online donations through the use of matching donations, and does not relate in anyway to what a charity or the like might do with the donations, i.e. delivery or distribution of the collected donations or goods. Kaneko relates to a supply chain management system for a factory or the like. More specifically, Kaneko relate to a technique of calculating an order amount in a process of producing products to be utilized in subsequent processes by using parts delivered from preceding processes, such that the parts to be delivered from the preceding processes are neither excessive nor insufficient (see, for example, Kaneko et al., column 1, lines 7-12). Kaneko et al. does not teach or suggest how or why the parts are positioned in “delivery lots”, but simply appears to imply that parts are somehow delivered in delivery lots. There would appear to be little motivation to modify Klasky et al. to include the “Method of and System for Order Calculation” of Kaneko et al., as this functionality is not addressed or even needed to accomplish the goal of Klasky et al., which is to provide a method for increasing donations through online matching donations. Nor would this functionality appear to advance this goal of Klasky et al. The Examiner is reminded that in determining the differences between the prior art and the claims, the question under 35 U.S.C. § 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious.

In addition, claim 1 recites the step of “providing the location of the delivery lot to the contributor.” With respect to this element, and in the Final Office Action, the Examiner states



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that it would have been obvious to modify Klasky and Kaneko to include the step of obtaining the location of each donation at one or more points in time, as taught by Robbins, because "it would allow to retrace the delivery root in case the package of the goods ordered is lost, thereby increasing the reliability of the system."

As noted above, Robbins relates to a package delivery tracking system for use by shippers and recipients. Even if a delivery step could be imputed to Klasky et al., which it cannot, the combination of Robbins would clearly suggest that the charity organization, i.e. the shipper (and not the contributor), and/or the recipient of the donated cash, goods and/or services, i.e. the receiver (and again not the contributor) might track the donated cash, goods and/or services through the distribution system. However, this is not what claim 1 recites. As noted above, claim 1 recites the step of "providing the location of the delivery lot to the contributor." As can clearly be seen, there is no suggestion, in either Klasky et al., Kaneko et al. or Robbins, for "providing the location of the delivery lot to the contributor" of a charity organization, as recited in claim 1.

Also on page 5 of the Final Office Action, and in response to Appellant's argument that the prior art does not teach *providing the location of the delivery lot to the contributor*, the Examiner states that Robbins was applied to show tracking by the contributor (Shipper) the delivery of the package via the Internet at one or more points in time, which obviously indicates *providing the location of the delivery lot*. However, and as previously pointed out, the Examiner appears to be miss-reading claim 1. Again, claim 1 recites:

1. (Original) A method for increasing the participation of contributors that provide donations to an organization, the method comprising the steps of:
  - receiving either directly or indirectly a donation from a contributor;
  - assigning the donation to a delivery lot of cash, goods and/or services;
  - obtaining the location of the delivery lot at one or more points in time; and

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providing the location of the delivery lot to the contributor.

(Emphasis Added) If anything, the shipper in Klasky would be the organization that receives the donations, assembles the donations into delivery lots, and ships the delivery lots to needy recipients. The shipper in Klasky would clearly not be the contributors to the charitable organization. Thus, even under the Examiner's interpretation, the prior art does not teach or suggest the step of *providing the location of the delivery lot to the contributor*, as recited in claim 1. Since none of the art cited by the Examiner discloses the step of providing the location of the delivery lot to the contributor, the Examiner's rejection of claim 1 must fall (see MPEP § 2143 "Basic Requirements of a *Prima Facie* Case of Obviousness).

In addition, there would appear to be no motivation whatsoever to make the combination of Klasky, Kaneko et al. and Robbins as the Examiner suggests. In fact, the only motivation for combining Klasky, Kaneko et al. and Robbins appears to come from Appellants own disclosure, which is clearly improper.

In light of the above remarks, independent claim 1 is believed to be clearly patentable over Klasky et al., Kaneko et al. and Robbins. For similar and other reasons, claims 2-10, 15-17, 19, 24 and 32 are also believed to be clearly patentable over Klasky et al., Kaneko et al. and Robbins.

3. *Claim 11*

Claim 11, which is dependent from claim 1, recites "wherein the location of the delivery lot is provided in response to a request from the contributor." On page 3 of the Final Office Action, the Examiner states "Robbins teaches said method and system, wherein the location of the delivery lot is automatically provided to the contributor at the one or more points in time". First, and as noted above, Robbins does not teach or suggest providing the location of a delivery lot to a contributor, as the Examiner suggests. In addition, the Examiner appears to be miss

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reading claim 11. As noted above, claim 11 recites “wherein the location of the delivery lot is provided in response to a request from the contributor.” Providing the location of the delivery lot in response to a request from the contributor is not the same as “automatically” providing the location of the delivery lot, as the Examiner appears to be suggesting. For these and other reasons, claim 11 is believed to be separately patentable over Klasky et al., Kaneko et al. and Robbins.

4. *Claim 12*

Claim 12, which is dependent from claim 1, recites “wherein the location of the delivery lot is provided via a web site that is accessible by the contributor.” On page 3 of the Final Office Action, the Examiner states “Klasky teaches said method and system, wherein the receiving step includes receiving information related to the donation via the internet”. Again, as noted above, if anything, the shipper in Klasky would be the charitable organization that receives the donations from the contributors, and not the contributors themselves. Thus, even under the Examiner’s interpretation, the prior art does not teach or suggest the step of providing the location of the delivery lot via a web site that is accessible by the contributor. For these and other reasons, claim 12 is believed to be separately patentable over Klasky et al., Kaneko et al. and Robbins.

5. *Claims 13-14*

Claim 13, which is dependent from claim 1, recites “wherein the location of the delivery lot is automatically provided to the contributor at the one or more points in time.” On page 3 of the Final Office Action, the Examiner states “Robbins teaches said method and system, wherein the location of the delivery lot is automatically provided to the contributor at the one or more points in time”. Again, as noted above, if anything, the shipper in Klasky would be the charitable organization that receives the donations from the contributors, and not the contributors themselves. Thus, even under the Examiner’s interpretation, the prior art does not teach or

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suggest the step of providing the location of the delivery lot to the contributor at one or more points in time. For these and other reasons, claims 13 and 14 are believed to be separately patentable over Klasky et al., Kaneko et al. and Robbins.

6. *Claim 18*

Claim 18, which is dependent from claim 1, recites "wherein two or more donations are assigned to a common delivery lot." On page 3 of the Final Office Action, the Examiner states:

Kaneko teaches assigning the ordered goods to a delivery lot (citing Kaneko, column 2, lines 46-48). Information as to the content of the delivery lot is non-functional language and given no patentable weight. Non-Functional descriptive material cannot render non-obvious an invention that would otherwise have been obvious".

This, however, does not specifically address claim 18. Column 2, lines 46-48 of Kaneko clearly do not suggest assigning two or more donations to a common delivery lot, as recited in claim 18. For these and other reasons, claim 18 is believed to be separately patentable over Klasky et al., Kaneko et al. and Robbins.

7. *Claims 20-23, 25-28*

Independent claim 20 recites:

20. A method for increasing the participation of contributors that provide donations to an organization, the method comprising the steps of:  
receiving either directly or indirectly two or more donations from two or more contributors;  
assigning each donation to a delivery lot of cash, goods and/or services;  
obtaining the location of each delivery lot at one or more points in time;  
and  
providing the location of a delivery lot to one or more contributors, each contributor receiving the location of the delivery lots that correspond to the contributor's donations.

Claim 20 is similar to claim 1, which is discussed above. Thus, for the same reasons discussed above with respect to claim 1, claim 20 is believed to be clearly patentable over Klasky et al., Kaneko et al. and Robbins. In addition, however, claim 20 further recites "each contributor

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receiving the location of the delivery lots that correspond to the contributor's donations". That is, claim 20 recites that each contributor's donation is assigned to a delivery lot of cash, goods and/or services, and each contributor receives the location of the delivery lot(s) that correspond to the contributor's donation. Clearly, nothing in Klasky et al., Kaneko et al. or Robbins, either along or in combination, suggests this step. For these and other reasons, claim 20 is believed to be separately patentable over Klasky et al., Kaneko et al. and Robbins. For similar and other reasons, claims 21-23 and 25-28 and also believed to be clearly patentable over Klasky et al., Kaneko et al. and Robbins.

8. *Claim 30*

Independent claim 30 recites:

30. A method for increasing the participation of contributors that provide donations to an organization, the method comprising the steps of:  
displaying one or more delivery lots to a contributor that need to be funding;  
accepting a selection of one or more of the available delivery lots by the contributor, and accepting a donation thereto; and  
sending a funded delivery lot once the delivery lot is fully funded.

To date, the Examiner has not specifically addressed claim 30. As noted above, Klasky et al. relates to a process of soliciting online donations through the use of matching donations. Nothing in Klasky et al. discloses or suggests: displaying one or more delivery lots to a contributor that need to be funding; accepting a selection of one or more of the available delivery lots by the contributor, and accepting a donation thereto; and sending a funded delivery lot once the delivery lot is fully funded. Neither Kaneko et al. or Robbins provided what Klasky et al. lacks. For these and other reasons, claim 30 is believed to be clearly patentable over Klasky et al., Kaneko et al. and Robbins.

9. *Claim 31*

Claim 31, which is dependent form claim 31, further recites:

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obtaining location information for the funded delivery lot after the funded delivery lot is sent; and  
providing the location information to those contributors that provided donations to the funded delivery lot.

As noted above, none of the art cited by the Examiner discloses the step of providing the location of the delivery lot to the contributor. More specifically, none of the art cited by the Examiner discloses or suggests the step of providing the location of the delivery lot to those contributors that provided donations to the funded delivery lot, as recited in claim 31. For these additional reasons, dependent claim 31 is believed to be separately patentable over Klasky et al., Kaneko et al. and Robbins.

B. Claim 29 is patentable over Klasky et al. (U.S. 2002/0038225) in view of Kaneko et al. (U.S. 5,930,763) in view of Robbins (U.S. 2003/0182265) and further in view of O'Donnell et al. (U.S. 2002/0013739).

Claim 29 is dependent from claim 25. Thus, for similar reasons to those given above with respect to claim 25, dependent claim 29 is also believed to be clearly patentable over Klasky et al., Kaneko et al., Robbins and O'Donnell et al. In addition, claim 29 recites "providing a chat room so that the contributors that provided donations to a common delivery lot can communicate with each other." The Examiner cites to paragraph [146] of O'Donnell et al. as suggesting such a chat room. Paragraph [146] of O'Donnell et al. states:

[0146] The database 10H can also include information for facilitating the making of anonymous donations, anonymous tips, anonymous information to law enforcement, public and/or private organizations and/or entities, anonymous rewards, anonymous internet service provider service, anonymous chat rooms, etc. The database 10H can also contain information for facilitating the making of anonymous confessions, the anonymous return of goods and/or funds, such as goods and/or funds obtained via theft, fraud, insurance fraud, etc. The database 10H can also contain information for facilitating the making of anonymous bids for contracts and/or anonymous bids in auctions.

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While this paragraph states that the database 10H may include information for facilitating the making of anonymous chat rooms, it clearly does not suggest providing a chat room so that the contributors that provided donations to a common delivery lot can communicate with each other, as recited in claim 29. For these additional reasons, claim 29 is believed to be clearly patentable over Klasky et al., Kaneko et al., Robbins and O'Donnell et al.

C. The "Non-Functional Language" Assertion

In the Final Office Action, the Examiner states that claims 17-18 and 28 contain non-functional language that is given no patentable weight. Appellant respectfully, but ardently, disagrees with this conclusion. With respect to claims 17-18, the Examiner states that "[i]nformation as to the content of the delivery lot is non-functional language and given no patentable weight". However, claims 17-18 do not merely recite the content of a delivery lot, but rather further define the method of assigning donations to delivery lots. Claim 17 recites that each donation is assigned to a unique delivery lot, and claim 18 recites that two or more donations are assigned to a common delivery lot. This is not merely non-functional language, and therefore must be given patentable weight.

With respect to claim 28, the Examiner states that "[i]nformation as to whether contributors include organizations is non-functional language and given no patentable weight". However, claim 28 does not merely recite that the contributors include organizations, but rather further defines the method of delivering information. Claim 28 recites that information relating to the delivery of the delivery lot is reported to one or more members of the contributing organization. This is not merely non-functional language, and therefore must be given patentable weight.

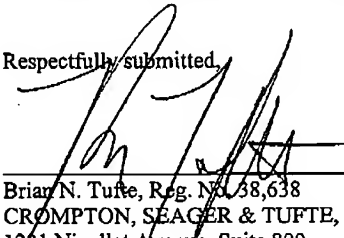
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D. Conclusion

For the reasons stated above, the rejections of claims 1-32 under 35 U.S.C. §103(a) should be reversed.

Respectfully submitted,

Date: March 8, 2005

  
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## VIII. CLAIMS APPENDIX

1. A method for increasing the participation of contributors that provide donations to an organization, the method comprising the steps of:

receiving either directly or indirectly a donation from a contributor;  
assigning the donation to a delivery lot of cash, goods and/or services;  
obtaining the location of the delivery lot at one or more points in time; and  
providing the location of the delivery lot to the contributor.

2. A method according to claim 1 wherein the receiving step includes receiving information related to the donation via the Internet.

3. A method according to claim 2 wherein the information includes a contributor's name.

4. A method according to claim 2 wherein the information includes a contributor's payment information.

5. A method according to claim 2 wherein the information includes a donation preference.

6. A method according to claim 1 wherein the receiving step includes receiving information related to the donation via the phone.

7. A method according to claim 1 wherein the receiving step includes receiving information related to the donation via email.

8. A method according to claim 1 wherein the cash, goods and/or services includes food.

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9. A method according to claim 1 wherein the cash, goods and/or services includes medicine.

10. A method according to claim 1 wherein the cash, goods and/or services includes cash.

11. A method according to claim 1 wherein the location of the delivery lot is provided in response to a request from the contributor.

12. A method according to claim 1 wherein the location of the delivery lot is provided via a web site that is accessible by the contributor.

13. A method according to claim 1 wherein the location of the delivery lot is automatically provided to the contributor at the one or more points in time.

14. A method according to claim 13 wherein the location of the delivery lot is provided to the contributor via e-mail.

15. A method according to claim 1 wherein the delivery lot includes one type of cash, goods and/or services.

16. A method according to claim 1 wherein the delivery lot includes two or more types of cash, goods and/or services.

17. A method according to claim 1 wherein each donation is assigned to a unique delivery lot.

18. A method according to claim 1 wherein two or more donations are assigned to a common delivery lot.

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19. A method according to claim 1 wherein the obtaining step includes obtaining the location of each delivery lot at two or more points in time, each corresponding to a different location.

20. A method for increasing the participation of contributors that provide donations to an organization, the method comprising the steps of:

receiving either directly or indirectly two or more donations from two or more contributors;

assigning each donation to a delivery lot of cash, goods and/or services;

obtaining the location of each delivery lot at one or more points in time; and

providing the location of a delivery lot to one or more contributors, each contributor receiving the location of the delivery lots that correspond to the contributor's donations.

21. A method according to claim 20 wherein each donation is assigned a unique ID, and each contributor provides or selects the unique ID to receive the location of the corresponding delivery lot.

22. A method according to claim 21 wherein each contributor provides or selects the unique ID via a web site.

23. A method according to claim 20 wherein the obtaining step includes obtaining the location of each delivery lot at two or more points in time, each corresponding to a different location.

24. A system for increasing the participation of contributors that provide donations to an organization, the system comprising:

means for receiving either directly or indirectly a donation from a contributor;

means for assigning the donation to a delivery lot of cash, goods and/or services;

means for obtaining the location of the delivery lot at one or more points in time; and

means for providing the location of the delivery lot to the contributor.

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25. A method for increasing the participation of contributors that provide donations to an organization, the method comprising the steps of:

assigning selected donations to a common delivery lot for delivery to an ultimate destination; and

reporting information relating to the delivery of the delivery lot to contributors whose donations have been assigned to the delivery lot.

26. A method according to claim 25 wherein the contributors include individuals.

27. A method according to claim 25 wherein the contributors include organizations with organization members.

28. A method according to claim 25 wherein information relating to the delivery of the delivery lot is reported to one or more members of the contributing organizations.

29. A method according to claim 25 further comprising the step of:  
providing a chat room so that the contributors that provided donations to a common delivery lot can communicate with each other.

30. A method for increasing the participation of contributors that provide donations to an organization, the method comprising the steps of:

displaying one or more delivery lots to a contributor that need to be funding;  
accepting a selection of one or more of the available delivery lots by the contributor, and  
accepting a donation thereto; and  
sending a funded delivery lot once the delivery lot is fully funded.

31. A method according to claim 30 further comprising the step of:  
obtaining location information for the funded delivery lot after the funded delivery lot is sent; and

providing the location information to those contributors that provided donations to the funded delivery lot.

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32. A method for increasing the participation of contributors that provide donations, wherein the donations are assigned to one or more delivery lots of cash, goods and/or services, the method comprising:

obtaining the location of the delivery lot at one or more points in time; and  
providing the location of the delivery lot either directly or indirectly to the contributor.